

OFFICE OF THE
PLANNING BOARD



INCORPORATED
DECEMBER 15, 1727
CHARTER JANUARY 1, 1991

October 22, 2015

Malea and John Hughes
7 Lilac Court
Nashua, NH 03062

Re: Tax Map R-1 Lot 36 9-2 Eagle Drive, Moody Point
Newmarket, NH 03857

Dear Mr. and Mrs. Hughes:

As you requested, I have gone back and researched the town's records to gain some clarity about the setback issue. I have also reviewed this matter with our town legal counsel, John Ratigan. Here is my zoning determination based on the Town's records and information that I have secured.

When the Moody Point Subdivision was approved in 1985, and subsequently revised to convert two of the lots (Lots 9 and 10) into 20 single family homes in 1990 and 1992, there was language in the Town's subdivision regulations at the time, as stated in **Section 4.15 Alternative Design Subdivisions**, as follows:

"E. Minimum Lot Dimensions

"Minimum requirements for setbacks and minimum frontage may be waived provided the perimeter buffer is maintained."

The Revised Plan for "The Hill at Moody Point" which is on file at the Rockingham County Register of Deeds only shows building setbacks around the "perimeter" of the lot. (See attached Plan D-21471). There are no side setbacks shown between the lots. The reason for that is because upon the completion of lot development the side property lines will go away, by virtue of the "final lot configuration" plan which will divide the fee simple ownership for each unit owner based on the footprint of the building and the driveway. The rest is then conveyed to the homeowner's association so in effect there are zero lot lines. This approach was used for several lots involving plan revisions at Moody Point for the "Hill" and "Lubberland Creek". This

policy was officially adopted by the Newmarket Planning Board on September 9, 1997. See attached. So, there is clearly a precedent for this approach.

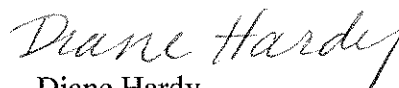
There was considerable discussion at the time of Planning Board review about whether the revised plan had fewer impacts than the original proposal involving five (5) multi-unit buildings with 4 units in each. The record of November 27, 1990, alludes to the project being "similar" to a zero-lot line concept by the developer's representative. The record also reflects that the Planning Board was more concerned at the time that there would not be an increase in density. The Planner at the time, Rob Houseman (who is the planner in Wolfboro currently) stated in the record that he felt that the "application didn't stray or change significantly from the initial intent (Planning Board minutes of 3/12/91).

Given my review of the record, it is my opinion that the Planning Board in approving the revised subdivision in 1990 and 1992 fully understood that there would be zero-lot lines at the end of the project. Although this was not explicitly stated in the record as a formal motion (as we do today) the plan that was approved shows no side setbacks, which in effect, means they waived the side setback requirements for the project, as they were authorized to do under the regulations that were in effect for Alternative Design Subdivisions at that time.

In my capacity of as Zoning Administrator, it is my determination that side setbacks do not apply to the Hughes Building Permit application that is currently before the Town's Building Official, provided a final configuration plan is submitted at the end of the project removing the side property lines as depicted on the Revised Final Site Plan for the Hill (D-21471) consistent with the Town's policy as articulated in the September 9, 1997 (Attached). This administrative determination is subject to any appeal by any aggrieved party, subject to NH RSA 676:5.

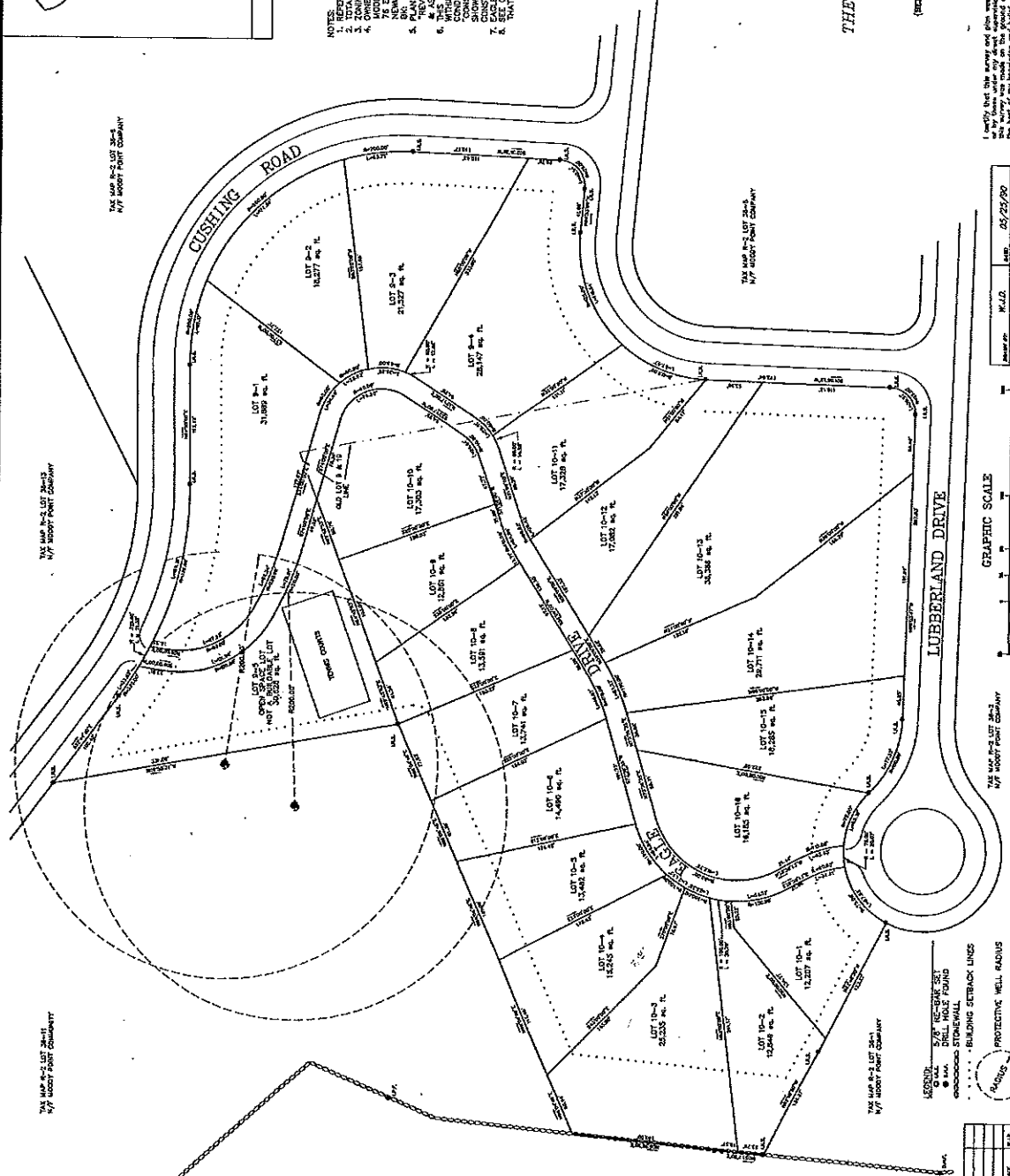
We appreciated your patience as we investigated this matter. I apologize for any confusion this has caused. Please feel free to contact me if you have any further questions.

Sincerely,



Diane Hardy
Town Planner/Zoning Administrator

cc. Steve Fournier, Town Administrator
Mike Hoffman, Building Official
John Ratigan, Donahue, Tucker, and Ciandella,

[illegible]

APPROVED DATE 2-20-91
NEWARKET, N.J.
PLANNING BOARD

[Signature]
2-16-91

11-27-90-03

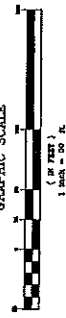
THE FOLLOWING CONTAINS THE NAME OF THE
PLANNING BOARD MEMBER WHO VOTED FOR
THIS ACTION. THE NAME OF THE
MEMBER WHO VOTED AGAINST THIS ACTION IS
NOT LISTED.

THE HILL AT MOODY POINT
REVISED FINAL SITE PLAN
LOTS 10-1 THROUGH 10-15
&
LOTS 9-1 THROUGH 9-4
(BEING A REVISION OF ORIGINAL LOTS 8 & 10)
CONSTRUCTION PHASE - STEP 1

I certify that this survey and plan were prepared by me or by those under my direct supervision. I certify that this survey was made on the ground and is correct to the best of my knowledge and belief. Random traverse survey by Theodolite and L.S.M. Precision greater than 1 : 15,000

[Signature]
20-2-59 DATE

SEARCHED	INDEXED	SERIALIZED	FILED
NOV 19 1964	NOV 19 1964	NOV 19 1964	NOV 19 1964
FBI - MEMPHIS	FBI - MEMPHIS	FBI - MEMPHIS	FBI - MEMPHIS



TAX MAP R-2 LOT 38-2
N/E MOODY POINT COMPANY

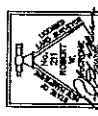
LUBBERLAND DRIVE

LEGEND

- 5/8" RE-BAR SET
- 1/4" DRILL HOLE FOUND
- STONEWALL
- BUILDING SETBACK LINES
- PROTECTIVE WELL RADII

[illegible]

D.21471



Planning Board Policy for Plan Revision Approvals at "The Hill" and
"Lubberland Creek, Moody Point."

Pursuant to the conditions of approvals granted for "the Hill" and "Lubberland Creek" at Moody Point subdivision plans on record at the Rockingham Registry of Deeds, and the requirement to record a "Final Configuration Plan" depicting each lot to be reconfigured after construction of a structure thereon, the Newmarket Planning Board hereby adopts the following policy.

- (1) The "final Configuration Plan" or revision thereof, shall be drawn by a licensed N.H. land surveyor who shall so certify that the plan meets the conditions of the original approvals;
- (2) Said plan shall be submitted to the Newmarket Code Enforcement Officer and Town Planner for review and placed on the agenda for the next Planning Board meeting.
- (3) The CEO or Planner shall notify Real Estate Advisors at the earliest opportunity if they have any problems with the plan but it will remain on the agenda unless Real Estate Advisors wants it removed.
- (4) When the agenda item is considered, a motion will be made to authorize the Planning Board Chair to stamp and sign the plan.
- (5) When the motion is passed, the Planning Board Chair will sign the plan at his earliest convenience.
- (6) The Planning Board secretary shall then record the plan and notify Real Estate Advisors Inc. of the recorded Plan Number.

Approved on this date. Sept. 9, 1997

Planning Board Chairman. Les P. Felton